

**STATE OF MISSISSIPPI
OFFICE OF THE COMMISSIONER OF INSURANCE**

COMMISSIONER OF INSURANCE

PETITIONER

VS.

CAUSE NO. 96-2903

EVERETTE WAITS

COPY

RESPONDENT

ADMINISTRATIVE ORDER

THIS CAUSE came for hearing before the Commissioner of Insurance of the State of Mississippi, sitting in a special session in the offices of the Commissioner of Insurance of the State of Mississippi, 10th Floor, Woolfolk State Office Building, 501 North West Street, Jackson, Hinds County, Mississippi on Tuesday, January 28, 2004, at 10:00 a.m. to give the Respondent an opportunity to determine the reasonableness of the proposed action of the Commissioner to deny the Respondent's application to be licensed as an insurance producer in the State of Mississippi.

NOTICE AND HEARING

I.

In a letter dated November 3, 2003, the Commissioner of Insurance of the State of Mississippi, pursuant to Miss. Code Ann. § 83-17-71 (2) (Supp. 2003), gave the required notice to the Respondent of the Commissioner's intention to hold a hearing for the purpose of denying the Respondent's application to operated as a Life Agent in State of Mississippi.

II.

That said Notice of Hearing and Statement of Charges was sent to Respondent by certified mail, return receipt requested, in accordance with Miss. Code Ann. § 83-17-71 (2)

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(Supp.2003), at the address Respondent provided to the Licensing Division of the Mississippi Department of Insurance.

III.

That pursuant to said Notice, a hearing was scheduled before the Commissioner of Insurance of the State of Mississippi, for 10:00 a.m., Monday, November 24, 2003.

IV.

Prior to such hearing date, the Respondent's legal counsel, Jeanine M. Carafello, made a request in writing to have the hearing date continued to a later date.

V.

An Order for Continuance was issued by the Commissioner of Insurance on November 21, 2003, continuing the hearing date from November 24, 2003 at 10:00 a.m. to December 2, 2003 at 10:00 a.m. The Respondents legal counsel was notified of such order by telephone, fax, and mail.

VI.

That Respondent, Everette Waits, after being duly and properly notified of said hearing in accordance with statutory requirements failed to appear at said hearing at its scheduled time.

VII.

On December 4, 2003, the Commissioner entered an Order denying the Respondent application to be licensed as an insurance producer.

VIII.

An Order, to set aside the Commissioner's Order of December 4, 2003 and to set a new

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hearing date, was entered by the Commissioner on January 6, 2004.

IX.

The Commissioner or his specially designated appointee notified the Respondent, through his attorney, Jeanine Carafello, by certified mail, that a new hearing date was set for January 28, 2004.

X.

That Respondent, Everette Waits, after being duly and properly notified of said hearing in accordance with statutory requirements appeared at said hearing at its scheduled time and provided testimony.

FINDINGS OF FACT

AFTER CONSIDERING all of the evidence presented, the Commissioner of Insurance makes the following Findings of Fact:

XI.

Respondent was previously licensed as an insurance producer by the Department.

XII.

On or about October 2, 1996, Respondent voluntarily surrendered his license in lieu of answering the charges set forth in a Notice of Hearing and Statement of Charges dated August 22, 1996.

XIII.

On or about February 14, 2000, the Department sent a letter to Respondent regarding Respondents inquiry into his current license status. The letter informed the Respondent that prior to being issued a new license or letter of clearance, the issues raised in the August 22, 1996, Notice of Hearing and Statement of Charges would have to be addressed.

XIV.

On or about June 14, 2000, the Respondent sent a letter to the Commissioner requesting the opportunity to be licensed once again as an insurance producer. Attached to this letter, was a copy of a letter dated March 9, 2000 which appears to have been mailed to the Department of Insurance. This letter of March 9, 2000 appears to be the Respondents attempt to address those charges brought against the Respondent in the August 22, 1996 Notice of Hearing and Statement of Charges.

XV.

On or about June 26, 2000, the Department sent a letter to the Respondent in response to a meeting between the Respondent and the Department. The letter informed the Respondent that if he wished to address the outstanding issues regarding his license that he could request a hearing before the Commissioner.

XVI.

On or about October 20, 2003, the Respondent filed an application for a life insurance producer license with the Department of Insurance.

XVII.

On or about October 28, 2003, the Respondent requested a hearing regarding his application for a life insurance producer license.

XVIII.

Respondent while selling insurance on behalf of Primerica Life Insurance Company encouraged insureds to purchase higher benefit coverage than the insureds initially asked for by offering and paying the first few months' premiums. In the solicitation of the aforementioned policies, the Respondent represented to the potential insureds that after the first few months they could lower the coverage which would result in the premium also being reduced.

XIX.

Respondent also instructed and allowed James Cain in 1995 to operate as an insurance agent prior to being properly licensed by the Mississippi Department of Insurance to engage in the business of insurance. Furthermore, the Respondent was paying James Cain commissions as an unlicensed agent in violations of the laws and the State of Mississippi.

XX.

That Respondent forged the name of an insured, Cindy Davis, on a replacement form that was submitted with their application. Furthermore, the Respondent took out an application for insurance on Cindy Davis' former husband, Victor Powers, outside the presence of the insured.

XXI.

Respondent either submitted or cause to be submitted with applications for insurance a falsified saliva test.

XXII.

Respondent filled out an insurance policy application on behalf of Mr. and Mrs. Matthew Rayborn and listed Mrs. Rayborn as a self-employed daycare worker after repeatedly being told by the Rayborns that Mrs. Rayborn was a full-time student and not employed at all.

CONCLUSIONS OF LAW

XXIII.

Respondent has violated the provisions of Miss. Code Ann. § 83-17-123 (1) (e) (Rev. 1991), by demonstrating a lack of trustworthiness and competence to act as an insurance agent in the State of Mississippi.

XXIV.

Respondent has violated the provisions of Miss. Code Ann. § 83-17-123 (1) (g) (Rev. 1991), by materially misrepresenting the terms and conditions of insurance policies or contracts.

XXV.

Respondent has violated the provisions of Miss. Code Ann. § 83-17-7 (Rev. 1991), by paying commissions for insurance business to an unlicensed person.

XXVI.

Respondent has violated the provisions of Miss. Code Ann. § 83-5-45 (Rev. 1991), by

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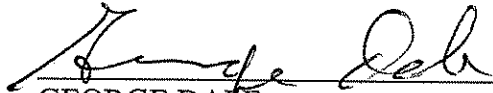
engaging in acts or methods of competition which are unfair and/or deceptive to the insurance buying public of the State of Mississippi.

ORDER

IT IS, THEREFORE, ORDERED that the charges previously stated herein against the Respondent, Everette L. Waits Jr., shall be and by the same are hereby sustained.

IT IS FURTHER ORDERED, that Everette L. Waits Jr.'s application for licensure as an insurance producer shall be **DENIED**.

SO ORDERED, this the 10th day of March, 2004.



GEORGE DALE
COMMISSIONER OF INSURANCE